

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

LOCAL 520 EMPLOYERS AND)
OPERATING ENGINEERS PENSION)
FUND, et al.,)
Plaintiff,)
V.) Civil No. 09-220-DRH
MARTIN BACKHOE SERVICE, LLC,)
Defendant.)

ORDER

PROUD, Magistrate Judge:

The plaintiff pension fund trustees are before the Court seeking to have the defendant Martin Backhoe Service held in contempt of Court for failing to comply with the order of default judgment entered by Chief Judge Herndon on July 14, 2009. (Doc. 14.) The defendant was ordered to submit to an audit within 30 days of the entry of default judgment— meaning by August 13, 2009. (Doc. 13.) According to the plaintiffs, to date the defendant has not submitted to the required audit.

Because the defendant never entered an appearance in the case— which lead to entry of default and default judgment— the only address the Clerk of Court and the defendant have been utilizing is the address used for the initial service of summons and the complaint: Martin Backhoe Service, LLC, 29808 State Route 15, Ashley, IL 62808. Out of an overabundance of caution, and in order to ensure the defendant’s presence at a hearing on the motion for contempt, the Court will direct the U.S. Marshal to effect personal service of this order upon the defendant

corporation. Once served, if the defendant fails to appear as directed, an arrest warrant will be issued for Troy Martin, who, according to the Illinois Secretary of State, is the registered agent and principal of Martin Backhoe Service, LLC.

IT IS THEREFORE ORDERED that a hearing is hereby set before U.S. Magistrate Judge Clifford J. Proud, at the U.S. District Court for the Southern District of Illinois, 750 Missouri Avenue, East St. Louis, Illinois 62201, on **June 14, 2010, at 10:00 a.m.**, whereby defendant Martin Backhoe Service, LLC, shall **SHOW CAUSE** why it should not be held in contempt of Court and why sanctions should not be imposed for its failure to comply with the July 14, 2009, order of Chief Judge Herndon, which directed the defendant to submit to an audit. Defendant shall appear at the hearing with all books, ledgers, payroll records and other documents reflecting or pertaining to all hours worked by and wages paid to its employees from January 1, 2008, to date.

IT IS FURTHER ORDERED that the U.S. Marshal for the Southern District of Illinois shall effect personal service of this order on Troy Martin, the registered agent of Martin Backhoe Service, LLC (29808 State Route 15, Ashley, IL 62808).

IT IS SO ORDERED.

DATED: May 11, 2010

s/ Clifford J. Proud
CLIFFORD J. PROUD
U. S. MAGISTRATE JUDGE